

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STATE OF NEBRASKA)	4:08CV3030
ex rel. SYLVIA A BONNER,)	
)	
Plaintiff,)	MEMORANDUM
v.)	AND ORDER
)	
FREDERICK E. McSWINE,)	
)	
Defendant.)	

The defendant has filed a pro se motion to alter or amend the judgment that was entered on March 26, 2008, remanding this case to state court for lack of subject matter jurisdiction. He has also filed a motion for an enlargement of time to file an appeal. Both motions will be denied.

As discussed in the court's previous memorandum and order (filing 8), the defendant's removal of this action to federal court was an impermissible attempt to collaterally attack a 1994 state court judgment for child support (which the plaintiff is attempting to enforce through garnishment). The arguments made and authorities cited by defendant in his motion and supporting brief fail to establish that the court has subject matter jurisdiction to entertain the action.

The order remanding this case to state court was made pursuant to 28 U.S.C. § 1447(c), and, as such, is not subject to review on appeal. *See Roberts v. BJC Health System*, 452 F.3d 737, 739 (8th Cir. 2006) ("When a district court remands a case based on a lack of subject matter jurisdiction under section 1447(c), a court of appeals lacks jurisdiction to entertain an appeal of the remand order. Thus, when a case is remanded under section 1447(c), the remand order must stand whether erroneous or not and whether review is sought by appeal or by extraordinary writ.") (citations and

internal quotations omitted). Consequently, there is no reason to grant the defendant an enlargement of time to file an appeal. In any event, the filing of a motion to alter or amend a judgment pursuant to Federal Rule of Civil Procedure 59 automatically extends the time for filing an appeal. *See* Fed. R. App. P. 4(a)(4)(A)(iv).

IT IS ORDERED that:

1. The defendant's motion to alter or amend judgment (filing 11) is denied.
2. The defendant's motion for an enlargement of time (filing 14) is denied.

April 9, 2008.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge